

CHAPTER 219.

WORKMEN'S COMPENSATION.

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CHAPTER 219.

WORKMEN'S COMPENSATION.

An Ordinance to Repeal and Replace the Workmen's Compensation Ordinance (Chapter 268) in order to give Statutory Effect to certain International Conventions regarding Workmen's Compensation, and to remedy certain defects in the Existing Law. ^{18 of 1954.} ^{21 of 1955.} *

[1ST JANUARY, 1955.]

1. This Ordinance may be cited as the Workmen's Compensation Ordinance. ^{Short title.}

PART I.—INTERPRETATION.

2. (1) In this Ordinance, unless the context otherwise requires, the expression "workman", subject to section 4 and the proviso to this sub-section, means any person who is employed under a contract of service or apprenticeship entered into with an employer either before or after the commencement of this Ordinance, whether such contract is by way of manual labour or otherwise, and whether it is express or implied, oral or in writing: ^{Meaning of "workman".}

* i.e. Chapter 268 of the 1946 edition.

Provided that the following persons are excepted from the definition of "workman"—

(a) any person employed otherwise than by way of manual labour whose earnings exceed five hundred pounds a year;

(b) any person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employer's trade or business, not being a person employed for the purposes of any game or recreation and engaged or paid through a club;

(c) an outworker;

(d) a tributer;

(e) an agricultural worker, other than one employed on any plantation or estate which is maintained for the purpose of growing cocoa, bananas, citrus, fruits, palm produce, rubber or other produce and on which not less than twenty-five persons are employed;

(f) a domestic servant;

(g) a member of the employer's family dwelling in the employer's house or the curtilage thereof; and

(h) any class of persons whom the Governor may by Order in Council declare not to be workmen for the purposes of the Ordinance.

(2) Subject to the proviso to sub-section (1), this Ordinance shall apply to every workman in any part of Sierra Leone.

(3) If in any proceedings for the recovery of compensation under this Ordinance it appears to the Court that the contract of service or apprenticeship under which the injured person was working at the time when the accident causing the injury happened was illegal, the Court may, if having regard to all the circumstances of the case it thinks proper so to do, deal with the matter as if the injured person had at the same time aforesaid been a person working under a valid contract of service or apprenticeship.

(4) Any reference to a workman who has been injured shall, unless the context otherwise requires, where the workman is dead, include a reference to his legal personal representative, or to his dependants or any of them or the Attorney General or such other officer as the Governor may appoint to act on behalf of the dependants of the workman.

3. (1) In this Ordinance, unless the context otherwise <sup>Interpreta-
tion.</sup> requires—

“compensation” means compensation as provided by this Ordinance;

“Court” means a magistrate’s Court:

Provided that the Governor may by order declare that in any area or for any case or class of cases proceedings under this Ordinance may be brought in any other Court;

“dependants” means those members of the family of a workman who are wholly or partly dependent upon his earnings at the time of his death, or would but for the incapacity of the workman due to the accident resulting in his death have been so dependent, and, where the workman, being a parent or grandparent of an illegitimate child, leaves such child so dependent on his earnings, shall include such illegitimate child or parent or grandparent, as the case may require:

Provided that a person shall not be deemed to be a partial dependant of another person unless he was dependent partially on contributions from that other person for the provision of the ordinary necessities of life suitable for persons in his class and position;

“domestic servant” means any house, stable, garage or garden servant employed in or in connection with the domestic services of any private dwelling-house, and includes the driver of a private motor car; ^{21 of 1955.}

“earnings” includes wages and any allowance in respect of increased cost of living paid to the workman by the employer and the value of any food, fuel, or quarters supplied to the workman by the employer if as a result of the accident the workman is deprived of such food, fuel or quarters; and any overtime payments or other special remuneration for work done, whether by way of bonus or otherwise, if of constant character or for work habitually performed; but shall not include remuneration for intermittent overtime, or casual payments of a non-recurrent nature, or any ex-gratia payment whether given by the employer or other person, or the value of a travelling allowance, or the value of any travelling concession or a contribution paid by the employer of a workman towards any pension or provident fund, or a sum paid to a workman to cover any special expenses entailed on him by the nature of his employment;

“employer” includes Her Majesty in Her Government of Sierra Leone, and any Native Administration or other local

or public authority, and any body of persons corporate or unincorporate, and the legal personal representative of a deceased employer, and, where the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, the latter shall, for the purposes of this Ordinance, be deemed to continue to be the employer of the workman whilst he is working for that person; and in relation to a person employed for the purposes of any game or recreation and engaged or paid through a club, the manager, or members of the managing committee of the club shall, for the purposes of this Ordinance, be deemed to be the employer;

“insurer” includes any insurance society, association, company or underwriter;

21 of 1955.

“medical aid” means medical, surgical and hospital treatment, skilled nursing services, and the supply of medicines within Sierra Leone or, with the approval of the Director of Medical Services, outside Sierra Leone and the supply, maintenance, repair and renewal of artificial limbs;

Cap. 151.

“medical practitioner” means a medical practitioner registered under the Medical Practitioners, Dentists and Druggists Ordinance;

“member of the family” means—

(a) when used in relation to a native, any one of those persons mentioned in the First Schedule;

(b) when used in relation to any person not being a native, wife, husband, father, mother, grandfather, grandmother, stepfather, stepmother, son, daughter, grandson, granddaughter, stepson, stepdaughter, brother, sister, half-brother, half-sister;

“outworker” means a person to whom articles or materials are given out to be made up, cleaned, washed, altered, ornamented, finished, or repaired or adapted for sale in his own home or on other premises not under the control or management of the person who gave out the materials or articles;

“partial incapacity” means, where the incapacity is of a temporary nature, such incapacity as reduces the earning capacity of a workman in any employment in which he was engaged at the time of the accident resulting in the incapacity, and, where the incapacity is of a permanent nature, such incapacity as reduces his earning capacity in every employment which he was capable of undertaking at that time:

Provided that every injury specified in the Second Schedule, except such injury or combination of injuries in respect of which the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries amounts to one hundred per centum or more, shall be deemed to result in permanent partial incapacity;

"prescribed" means prescribed by rules made under this Ordinance;

"scheduled disease" means any disease specified in the Third Schedule to this Ordinance;

"total incapacity" means such incapacity whether of a temporary or permanent nature, as incapacitates a workman for any employment which he was capable of undertaking at the time of the accident resulting in such incapacity:

Provided that permanent total incapacity shall be deemed to result from an injury or from any combination of injuries specified in the Second Schedule where the percentage or aggregate percentage of the loss of earning capacity as specified in that Schedule against such injury or injuries, amounts to one hundred per centum or more;

"tributer" means a person who directly or indirectly is permitted to win minerals receiving in return for the minerals so won remuneration paid directly or indirectly by the person who permitted him to win the minerals.

(2) The exercise and performance of the powers and duties of a Native Administration or other local or public authority shall for the purposes of this Ordinance be deemed to be the trade or business of such local or other public authority.

4. This Ordinance shall apply to workmen employed by or under the Crown in the same way and to the same extent as if the employer were a private person, except in the case of—

Application to workmen employed under the Crown.

(a) members of the Armed Forces of the Crown; and

(b) persons in the civil employment of Her Majesty who have been entered for engagement in a place outside Sierra Leone:

Provided that this Ordinance shall not apply in the case of a workman in, or selected for the appointment to, the service of the Government of Sierra Leone before the date upon which this Ordinance comes into operation where, in consequence of injury received by any such workman in the discharge of his duties, a pension or gratuity which would not be payable if

such injury were received otherwise, is paid to him or, in the case of death, to any of his dependants as defined in this Ordinance, under any Ordinance or rule providing for the grant of such pension or gratuity.

PART II.—COMPENSATION FOR INJURY.

Employer's
liability for
compensa-
tion.

5. (1) If in any employment personal injury by accident arising out of and in the course of the employment is caused to a workman, his employer shall, subject as hereinafter mentioned, be liable to pay compensation in accordance with the provisions of this Ordinance:

Provided that—

(a) the employer shall not be liable under this Ordinance in respect of any injury which does not incapacitate the workman for a period of at least four consecutive days from earning full wages at the work at which he was employed; and

(b) if it is proved that the injury to a workman is attributable to the serious and wilful misconduct of that workman, any compensation claimed in respect of that injury shall be disallowed:

Provided that where the injury results in death or serious and permanent incapacity, the Court on a consideration of all the circumstances may award the compensation provided by this Ordinance or such part thereof as it shall think fit.

(2) For the purposes of this Ordinance, an accident resulting in the death or serious and permanent incapacity of a workman shall be deemed to arise out of and in the course of his employment, notwithstanding that the workman was at the time when the accident happened acting in contravention of any statutory or other rule applicable to his employment, or of any orders given by or on behalf of his employer, or that he was acting without instructions from his employer, if such act was done by the workman for the purposes of and in connection with his employer's trade or business.

(3) No compensation shall be payable under this Ordinance in respect of any incapacity or death resulting from a deliberate self-injury.

(4) No compensation shall be payable under this Ordinance in respect of any incapacity or death resulting from personal injury, if the workman has at any time represented to the employer that he was not suffering or had not previously

suffered from that or a similar injury knowing that the representation was false.

6. Where death results from the injury—

Compensation
in fatal cases.

(a) if the workman leaves any dependants wholly dependent on his earnings, the amount of compensation shall be a sum equal to thirty-six months' earnings or seven hundred pounds whichever is less: but where in respect of the same accident compensation has been paid under the provisions of section 7, section 8, section 9 or section 10 there shall be deducted from the sum payable under this paragraph any sums so paid as compensation;

(b) if the workman does not leave any dependants wholly dependent on his earnings, but leaves any dependants in part so dependent, the amount of compensation shall be such sum, not exceeding in any case the amount payable under paragraph (a) of this section, as may be determined by the Court to be reasonable and proportionate to the injury to the said dependants;

(c) if the workman leaves no dependants, the reasonable expenses of the burial of the deceased workman not exceeding the sum of fifteen pounds, shall be paid by the employer.

7. (1) Where permanent total incapacity results from the injury the amount of compensation shall be a sum equal to forty-eight months' earnings:

Compensation
in cases of
permanent
total
incapacity.

Provided that in no case shall the amount of compensation in respect of permanent total incapacity be greater than one thousand pounds or less than seventy-five pounds.

(2) Where an injury results in permanent total incapacity of such a nature that the injured workman is compelled to employ constant help of another person, additional compensation may be paid not exceeding one-quarter of the amount which is otherwise payable under this section.

8. (1) Where permanent partial incapacity results from the injury the amount of compensation shall be—

Compensation
in cases of
permanent
partial
incapacity.

(a) in the case of an injury specified in the Second Schedule to this Ordinance, such percentage of forty-eight months' earnings or one thousand pounds whichever is the less as is specified therein as being the percentage by which the earning capacity of the workman has been diminished as a result of the injury;

(b) in the case of an injury not specified in the Second Schedule to this Ordinance, such percentage of forty-eight months' earnings or one thousand pounds, whichever is the less as is proportionate to the loss of earning capacity permanently caused by the injury:

Provided that where the injury has particular consequences, having regard to the special nature of the workman's occupation, and the Court, upon application by the workman, considers that the percentage representing the loss of earning capacity which would otherwise have been determined is clearly inadequate, the Court may declare such workman to have incurred such higher degree of incapacity as it deems equitable.

(2) Where more injuries than one are caused by the same accident, the amount of compensation payable under the provisions of this section shall be aggregated, but not so in any case as to exceed the amount which would have been payable if permanent total incapacity had resulted from the injuries.

Compensation
in the case of
temporary
incapacity.

9. (1) Where temporary incapacity whether total or partial results from the injury, the compensation shall be the periodical payments hereinafter mentioned payable at such intervals as may be agreed upon or as the Court may order, or a lump sum calculated accordingly having regard to the probable duration, and probable changes in the degree, of the incapacity. Such periodical payments shall be, or shall be at the rate proportionate to, a monthly payment of half the difference between the monthly earnings which the workman was earning at the time of the accident and the monthly earnings which he is earning or is capable of earning in some suitable employment or business after the accident:

Provided that—

(a) no periodical payment under the provisions of this section shall be at a higher rate than sixteen pounds per month or as long as temporary total incapacity lasts, less than thirty shillings per month;

(b) neither the aggregate of the periodical payments nor the lump sum payable under this sub-section shall exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of section 7 or section 8, as the case may be, if the incapacity were permanent;

(c) any period of absence from duty certified necessary by a medical practitioner shall be regarded as a period of temporary total incapacity irrespective of the outcome of

the injury and any period subsequent thereto but preceding final assessment of disability shall be regarded as a period of temporary partial incapacity, both periods being continuous with each other, variations in payments notwithstanding;

(d) the maximum duration of periodical payments under this section shall not exceed ninety-six months;

(e) if the incapacity lasts less than four weeks, no compensation shall be payable in respect of the first four days. 21 of 1955.

(2) In fixing the amount of the periodical payment the Court shall have regard to any payment, allowance or benefit which the workman may receive from the employer during the incapacity.

(3) On the ceasing of the incapacity before the date on which any periodical payment falls due, there shall be payable in respect of that period a sum proportionate to the duration of the incapacity in that period.

(4) Where a workman in receipt of periodical payments under the provisions of this section intends to leave the neighbourhood in which he was employed, for the purpose of residing elsewhere, he shall give notice of such intention to the employer who may agree with the workman for the redemption of such periodical payments by a lump sum, or for the continuance of such periodical payments. If the employer and workman are unable to agree, either party may apply to the Court which shall have jurisdiction to order such redemption and to determine the amount to be paid or to order the continuance of the periodical payments; subject however to the limits in sub-section (1) of this section:

Provided that any lump sum so ordered to be paid together with the periodical payments already made to the workman shall not exceed the lump sum which would be payable in respect of the same degree of incapacity under the provisions of section 7 or section 8, as the case may be, if the incapacity were permanent.

(5) If a workman in receipt of periodical payments under the provisions of this section leaves the neighbourhood in which he was employed, for the purpose of residing elsewhere, without giving notice as provided in sub-section (4) of this section, or having given such notice leaves the neighbourhood as aforesaid without having come to an agreement with his employer for the redemption or continuance of such periodical payments, or

without having made application to the Court under the provisions of sub-section (4) of this section, he shall not be entitled to any benefits under the provisions of this Ordinance during or in respect of the period of his absence. If the period of such absence shall exceed six months, the workman shall cease to be entitled to any benefits under the provisions of this Ordinance.

Compensation for the period of immediate disability.

10. (1) In this section—

“period of immediate disability” means the period from the commencement of the incapacity resulting from the injury until—

(a) the workman recovers the full earning capacity which he enjoyed immediately before the accident; or

(b) the degree of permanent incapacity is certified by a medical practitioner named or approved by the employer to have resulted from the injury; or

(c) the workman dies as a result of the injury.

(2) In all cases where incapacity results from the injury compensation calculated in accordance with the provisions of sub-section (1) of section 9 shall be paid by the employer in respect of the period of immediate disability and in the event of permanent incapacity resulting from the injury no deduction shall be made from the lump sum payable under section 7 or section 8 by reason of any compensation paid in respect of the period of immediate disability whether such compensation consists of periodical payments or a lump sum in lieu thereof under sub-section (1) of section 9 or a lump sum in redemption of periodical payments under sub-section (4) of section 9 or a lump sum in substitution for periodical payments pursuant to an order of the Court under sub-section (2) of section 19.

Method of calculating earnings.

11. (1) For the purposes of this Ordinance the monthly earnings of a workman shall be computed in such manner as is best calculated to give the rate per month at which the workman was being remunerated during the previous twelve months if he has been so long employed by the same employer, but, if not, then for any less period during which he has been in the employment of the same employer:

Provided that where by reason of the shortness of the time during which the workman has been in the employment of his employer or the casual nature of the employment, or the terms of the employment, it is impracticable at the date of the accident to compute the rate of remuneration, regard may be had to

the average monthly amount which, during the twelve months previous to the accident, was being earned by a person of similar earning capacity in the same grade employed at the same work by the same employer, or, if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same class of employment and in the same district:

Provided further that where a workman who has suffered permanent disablement was, at the date of the accident, under the apparent age of 18 years, or was employed under a contract of apprenticeship, improvership or learnership, the amount of his compensation shall be based on the minimum rate of pay of a journeyman in the same trade.

(2) For the purposes of sub-section (1) of this section, employment by the same employer shall be taken to mean employment by the same employer in the grade in which the workman was employed at the time of the accident, uninterrupted by absence from work due to illness or any other unavoidable cause.

(3) Where the workman had entered into concurrent contracts of service with two or more employers under which he worked at one time for one such employer and at another time for another such employer, his monthly earnings shall be computed as if his earnings under all such contracts were earnings in the employment of the employer for whom he was working at the time of the accident, whether he was or was not employed by the other employer or employers as a workman as defined in this Ordinance:

Provided that the earnings of the workman under the concurrent contract shall be disclosed to any other employer at the time of his engagement with the latter and shall be taken into account only so far as the workman is incapacitated from performing the concurrent contract.

(4) Upon request of the workman to the employer liable to pay compensation, that employer shall furnish in writing a list of the earnings which have been earned by that workman upon which the amount of the monthly earnings may be calculated for the purposes of this section.

12. (1) The compensation shall be payable to or for the benefit of the workman, or, where death results from the injury to or for the benefit of his dependants as provided by this Ordinance.

Persons
entitled to
compensa-
tion.

(2) Where there are both total and partial dependants nothing in this Ordinance shall be construed as preventing the compensation being allotted partly to the total and partly to the partial dependants.

(3) Where a dependant dies before a claim in respect of death is made under this Ordinance, or, if a claim has been made, before an order for the payment of compensation has been made, the legal personal representative of the dependant shall have no right to payment of compensation, and the claim for compensation shall be dealt with as if that dependant had died before the workman.

Distribution
of com-
pensation.

13. (1) (a) Compensation payable where the death of a workman has resulted from an injury shall be paid to the Court, and the Court may order any sum so paid in to be apportioned among the dependants of the deceased workman or any of them in such proportion as the Court thinks fit, or in the discretion of the Court, to be allotted to any such dependant, and the sum so allotted to any dependant shall be paid to him or be invested, applied or otherwise dealt with for his benefit in such manner as the Court thinks fit.

(b) Where on application being made in accordance with rules made under this Ordinance, it appears to the Court that, on account of the variation of circumstances of the various dependants, or for any other sufficient cause, an order made under this sub-section ought to be varied, the Court may make such order for the variation of the former order as in the circumstances of the case the Court may think just.

(2) Compensation payable under the provisions of section 7 or section 8 and lump sums payable under the provisions of section 9 shall be paid to the Court, and the Court may order any sum so paid in to be paid to the person entitled thereto or to be invested applied or otherwise dealt with for his benefit in such manner as the Court thinks fit.

(3) Nothing in this section shall prevent an employer from making any payment to a workman pending the settlement or determination of the claim and the Court may order that the whole or any part of such payment shall be deducted from the amount of compensation payable to him under the provisions of this section.

(4) Any other compensation payable under this Ordinance may be paid to the workman or to the Court and when so paid in shall be paid by the Court to the person entitled thereto.

(5) The receipt of the Magistrate shall be a sufficient discharge in respect of any amount paid to the Court under the provisions of this Ordinance.

(6) Any order or directions of the Court under this section shall be final.

14. Proceedings for the recovery under this Ordinance of compensation for an injury shall not be maintainable unless notice of the accident has been given by or on behalf of the workman as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured, and unless the application for compensation with respect to such accident has been made within six months from the occurrence of the accident causing the injury or, in the case of death, within six months from the time of death:

Require-
ments as to
notice of
accident by
or on behalf
of workman.

Provided that—

(a) the want of, or any defect or inaccuracy in, such notice shall not be a bar to the maintenance of such proceedings if the employer is proved to have had knowledge of the accident from any other source at or about the time of the accident, or if it is found in the proceedings for settling the claim that the employer is not, or would not, if a notice or an amended notice were then given and the hearing postponed, be prejudiced in his defence by the want, defect or inaccuracy, or that such want, defect or inaccuracy was occasioned by mistake or other reasonable cause;

(b) the failure to make an application within the period above specified shall not be a bar to the maintenance of such proceedings if it is found that the failure was occasioned by mistake, absence from Sierra Leone or other reasonable cause.

15. (1) Notice of an accident causing injury to a workman of such a nature as would entitle him to compensation under the provisions of this Ordinance shall be given in the prescribed form to the Commissioner of Labour or to the Labour Officer of the area by the employer as soon as practicable after the happening thereof and before the workman has voluntarily left the employment in which he was injured.

Employer to
report
accident.

(2) When the death of a workman from any cause whatever is brought to the notice of, or comes to the knowledge of, his employer, the employer shall, as soon as practicable after the

occurrence of the death, give notice thereof in the prescribed form to the Commissioner of Labour or to the Labour Officer of the area in which the workman was employed. Such notice shall state the circumstances of the death of the workman if they are known to the employer.

(3) Any employer who fails to comply with the provisions of sub-section (1) or sub-section (2) of this section without reasonable cause shall be guilty of an offence and shall be liable, on conviction therefor, to a fine not exceeding fifty pounds.

(4) Nothing contained in this section shall prevent any person from making a claim for compensation under this Ordinance.

Medical
examination
and treat-
ment.

16. (1) Where a workman has given notice of an accident, the employer shall, as soon as reasonably possible after the date on which notice has been given, arrange to have him medically examined free of charge to the workman, either by a medical practitioner named by the employer or where the employer fails to name a medical practitioner, by a medical practitioner named by the workman with the employer's approval, and such approval shall not be unreasonably withheld; and any workman who is in receipt of periodical payments under section 9 shall submit himself for such medical examination from time to time as may be required by the employer.

(2) When the examination is carried out by a medical practitioner named by the employer, the workman shall, when required, attend upon that medical practitioner at the time and place notified to the workman by the employer or that medical practitioner, provided such time and place is reasonable.

(3) In the event of the workman being, in the opinion of any medical practitioner, unable or not in a fit state to attend on the medical practitioner named by the employer, that fact shall be notified to the employer, and the medical practitioner so named shall fix a reasonable time and place for a personal examination of the workman and shall send him notice accordingly.

(4) If the workman fails to submit himself for such examination, his right to compensation shall be suspended until such examination has taken place; and if such failure extends for a period of fifteen days from the date when the workman was required to submit himself for examination under the provisions of sub-section (2), or sub-section (3) of this section, as the case

may be, no compensation shall be payable, unless the Court is satisfied that there was reasonable cause for such failure.

(5) The workman shall be entitled to have his own medical practitioner present at such examination but at his own expense, and such medical practitioner need not be the practitioner approved by the employer.

(6) During the period of temporary total incapacity, the employer shall arrange to submit the workman for normal medical treatment by either the employer's medical practitioner or the workman's medical practitioner approved by the employer, at the expense of the employer. Such normal medical treatment shall include any specialist treatment which the employer may require the workman to undergo.

(7) If the workman has failed to submit himself for treatment by a medical practitioner when so required under the provisions of sub-section (6) of this section, or having submitted himself for such treatment has disregarded the instructions of such medical practitioner, then if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the injury has been aggravated thereby, the injury and resulting incapacity shall be deemed to be of the same nature and duration as they might reasonably have been expected to be if the workman had submitted himself for treatment by, and duly carried out the instructions of, such medical practitioner, and compensation, if any, shall be payable accordingly.

(8) Where under the provisions of this section a right of compensation is suspended, no compensation shall be payable in respect of the period of suspension.

(9) Notwithstanding the previous provisions of this section where a claim for compensation is made in respect of the death of a workman, then if the workman failed to submit himself to examination by a medical practitioner when so required under the provisions of this section, or failed to submit himself for treatment by a medical practitioner when so required under the provisions of this section or having submitted himself for such treatment disregarded the instructions of such medical practitioner, and if it is proved that such failure or disregard was unreasonable in the circumstances of the case and that the death of the workman was caused thereby, the death shall not be deemed to have resulted from the injury, and no compensation shall be payable in respect of the injury.

Agreement as
to com-
pensation.

17. (1) The employer and workman may, with the approval of the Commissioner of Labour or a person appointed by him in writing in that behalf, after the injury in respect of which the claim to compensation has arisen agree in writing as to the compensation to be paid by the employer. Such agreement shall be in duplicate, one copy to be kept by the employer and one copy to be kept by the workman:

Provided that—

(a) the compensation agreed upon shall not be less than the amount payable under the provisions of this Ordinance; and

(b) where the workman is unable to read and understand writing in the language in which the agreement is expressed the agreement shall not be binding against him unless it is endorsed by a certificate of a Magistrate, or the Labour Officer of the area, to the effect that he read over and explained to the workman the terms thereof and they were, if necessary, interpreted to him in a language which he understood, and that the workman appeared fully to understand and approve of the agreement.

(2) Any agreement made under the provisions of sub-section (1) of this section may on application to the Court be made an order of the Court.

(3) Where compensation has been agreed the Court may, notwithstanding that the agreement has been made an order of the Court under the provisions of sub-section (2) of this section, on application by any party within three months after the date of the agreement, cancel it and make such order (including an order as to any sum already paid under the agreement) as in the circumstances the Court may think just, if it is proved—

(a) that the sum paid or to be paid was or is not in accordance with the provisions of sub-section (1) of this section; or

(b) that the agreement was entered into in ignorance of, or under a mistake as to, the true nature of the injury; or

(c) that the agreement was obtained by such fraud, undue influence, misrepresentation or other improper means as would, in law, be sufficient ground for avoiding it.

(4) No stamp duty shall be leviable or payable on any agreement under this section.

18. (1) If an employer on whom notice of the accident has been served under the provisions of section 14 does not within twenty-one days after the receipt of the notice agree in writing with the workman as to the amount of compensation to be paid, the workman may, in the prescribed form and manner, make an application for enforcing his claim to compensation to the Court having jurisdiction in the district in which the accident giving rise to the claim occurred.

Determina-
tion of
claims.

(2) All claims for compensation under the provisions of this Ordinance, unless determined by agreement, and any matter arising out of proceedings thereunder shall be determined by the Court whatever may be the amount involved, and the Court may for that purpose call upon any public officer or any independent medical practitioner to give evidence, if the Court is of opinion that such officer or practitioner is, by virtue of his expert knowledge, able to assist the Court.

(3) Upon the hearing by any Court of any claim to compensation in respect of injury arising out of any accident in connection with machinery or with mining or prospecting operations, the record of any inquiry into the cause of such accident held under the Machinery (Safeworking and Inspection) Ordinance or the Concessions Ordinance or the Minerals Ordinance, signed by the persons authorised to hold such inquiry shall be admitted in evidence without further proof thereof and shall be conclusive proof of the facts found therein relevant to the accident.

Caps. 218, 121
and 196.

19. (1) Any compensation payable under section 8 either under agreement between the parties or under an order of the Court may, on the application of the workman and subject to the provisions of this Ordinance be increased by the Court, where a degree of incapacity resulting from the accident greater than that originally assessed is certified by a medical practitioner.

Review.

(2) Any periodical payments payable under sections 9 or 10 either under agreement between the parties or under an order of the Court, may be reviewed by the Court on the application either of the employer or of the workman:

Provided that where the application for review is based on a change in the condition of the workman any such application shall be supported by a certificate of a medical practitioner if the services of a medical practitioner are available.

(3) Any periodical payment may, on review under this section, subject to the provisions of this Ordinance, be continued, increased, diminished, converted to a lump sum, or ended. If the accident is found to have resulted in permanent incapacity, the periodical payment shall be converted to the lump sum to which the workman is entitled under the provisions of section 7 or section 8, as the case may be, and such lump sum shall be dealt with in accordance with the provisions of sub-section (2) of section 13.

(4) Where a review under this section takes place more than six months after the accident, and it is claimed and proved, that, had the workman remained uninjured, and continued in the same class of employment as that in which he was employed at the date of the accident, his average monthly earnings during the twelve months preceding the review would, as a result of fluctuations in rates of remuneration, have been greater or less by more than twenty per cent of his average monthly earnings previous to the accident (or, if the monthly payment has been previously varied, on a review during the twelve months previous to that review or the last of such reviews), the monthly payment shall be varied so as to make it such as it would have been if the rates of remuneration obtained during the twelve months previous to the review had obtained during the twelve months previous to the accident.

(5) Where application is made by an employer under the provisions of this section for any periodical payment to be ended or diminished, and the application is supported by the certificate of a medical practitioner, the employer may pay into Court, the periodical payment, or so much thereof as is equal to the amount to which he contends that the periodical payment should be diminished, to abide the decision of the Court made on a review under this section.

(6) In making a review under the provisions of this section the Court shall have regard only to the capacity for work of the workman as affected by the accident.

Limitation of power of employer to end or decrease periodical payments.

20. Subject to the provisions of sub-section (5) of section 9, sub-section (4) of section 16 and sub-section (4) of section 19 an employer shall not be entitled otherwise than in pursuance of an agreement or an order of the Court—

(a) to end periodical payments except—

(i) where a workman resumes work and his earnings are not less than the earnings which he was obtaining before the accident; or

- (ii) where a workman dies;
- (b) to diminish periodical payments except—
 - (i) where a workman in receipt of periodical payments in respect of total incapacity has actually returned to work; or
 - (ii) where the earnings of a workman in receipt of periodical payments in respect of partial incapacity have actually been increased.

21. (1) Save as is provided in this Ordinance and any rules made thereunder, the Court shall, upon or in connection with any question to be investigated or determined thereunder, have all the powers and jurisdiction exercisable by a Magistrate's Court in or in connection with civil actions in such Court and the law, rules and practice relating to such civil actions and to the enforcement of judgments and orders of the Court shall *mutatis mutandis* apply.

Jurisdiction
of the Court.

(2) Where in any proceedings under the provisions of this Ordinance on a claim for compensation in respect of the death of a workman, the Court is satisfied that other or sufficient evidence as to the dependency on the deceased workman of a person claiming to be a dependant, residing outside the district in which the proceedings are being taken, or as to the degree of such dependency, cannot be procured, or cannot be procured without undue hardship to the claimant or other party to the proceedings, a statement as to the dependency and as to the degree of dependency of the claimant signed by the District Commissioner of the district in which the claimant resides whether within Sierra Leone or within any other Colony shall be *prima facie* proof of the facts stated therein. The signature of the District Commissioner shall be admitted without proof unless the Court shall have reason to doubt the genuineness thereof.

(3) If in such proceedings any evidence is adduced which in the opinion of the Court traverses the facts set out in such a statement, or if for any other reason the Court thinks fit, the Court may request a Court having jurisdiction in the district in which a person claiming to be a dependant resides, to investigate the fact of the dependency and the degree of dependency of such person. The record of any such investigation including the finding of the Court thereon shall be receivable as evidence in the proceedings, and a certificate signed by a magistrate or an officer of the Court which has conducted the

investigation shall be sufficient proof of such record and such signature shall be admitted without proof unless the Court shall have reason to doubt the genuineness thereof.

(4) Where a request is received by a Court from a Court in another district whether within Sierra Leone or within any other Colony for an investigation of any matter arising out of proceedings for compensation instituted in such other Court under the provisions of this Ordinance, or, if the other Court is in another Colony under a law relating to workmen's compensation, the Court shall have jurisdiction to conduct such investigation, and shall transmit to such other Court the record of such investigation, including its findings thereon, duly certified by the Magistrate or by an officer of the Court.

(5) For the purposes of this section the expression "Colony" means any British Colony or British Protectorate in Africa or any territory in Africa in respect of which a Trusteeship Agreement has been entered into by Her Majesty.

Power of the Court to submit questions of law.

22. The Court may, if it thinks fit, submit any question of law for the decision of a Judge of the Supreme Court, which decision shall be binding upon the Court and upon the parties, and no appeal shall lie therefrom. Such submission shall be in the form of a special case in accordance with rules made under the provisions of this Ordinance.

Appeals.

23. (1) Subject to the provisions of this section and of section 13 an appeal shall lie to the Supreme Court from any order of the Court.

(2) Except with the leave of the Court or of the Supreme Court (which shall not be granted unless in the opinion of such Court some substantial question of law is involved in the appeal) no appeal shall lie if the amount in dispute is less than fifty pounds.

(3) No appeal shall lie in any case in which the parties have agreed to abide by the decision of the Court, or in which the order of the Court gives effect to an agreement come to by the parties.

(4) No appeal shall lie after the expiration of thirty days from the date of the order of the Court:

Provided that the Supreme Court may, if it thinks fit, extend the time for appealing under the provisions of this section notwithstanding that the time for appealing has elapsed.

24. (1) Where any person (in this section referred to as the principal), in the course of or for the purposes of his trade or business, contracts with any other person otherwise than as a tributer (which other person is in this section and the next succeeding section referred to as the contractor) for the execution by or under the contractor of the whole or any part of any work undertaken by the principal, the principal shall be liable to pay to any workman employed in the execution of the work any compensation under the provisions of this Ordinance which he would have been liable to pay if that workman had been immediately employed by him; and where compensation is claimed from or proceedings are taken against the principal, then, in the application of this Ordinance, references to the principal shall be substituted for references to the employer, except that the amount of compensation shall be calculated with reference to the earnings of the workman under the employer by whom he is immediately employed.

Liability in case of workman employed by contractors.

(2) Where the principal is liable to pay compensation under the provisions of this section, he shall be entitled to be indemnified by any person who would have been liable to pay compensation to the workman independently of this section.

(3) Where a claim or application for compensation is made under the provisions of this section against a principal, the principal shall give notice thereof to the contractor who shall thereupon be entitled to intervene in any application made against the principal.

(4) Nothing in this section shall be construed as preventing a workman recovering compensation under the provisions of this Ordinance from the contractor instead of the principal.

(5) This section shall not apply in any case where the accident occurred elsewhere than on, or in, or about premises on which the contractor has undertaken to execute the work on behalf of the principal or which are otherwise under the control or management of the principal.

25. Where the injury in respect of which compensation is payable under the provisions of this Ordinance was caused under circumstances creating a legal liability in some person other than the employer to pay damages in respect thereof—

Remedies against both employer and stranger.

(a) the workman may take proceedings both against that person to recover damages and against any person liable to pay compensation under the provisions of this Ordinance

for such compensation, but shall not be entitled to recover both damages and compensation; and

(b) if the workman has recovered compensation under the provisions of this Ordinance, the person by whom the compensation was paid, and any person who has been called on to pay an indemnity under the provisions of section 24 relating to liability in case of workmen employed by contractors, shall be entitled to be indemnified as regards the amount of compensation, including costs, by the person so liable to pay damages as aforesaid, and any question as to the right to and amount of any such indemnity shall, in default of agreement, be settled by civil suit or, by consent of the parties, by arbitration under the Arbitration Ordinance.

Cap. 25.

Proceedings
independently of the
Ordinance.

26. (1) Where the injury was caused by the personal negligence or wilful act of the employer or some other person for whose act or default the employer is responsible, nothing in this Ordinance shall prevent proceedings to recover damages being instituted against the employer in a civil Court independently of this Ordinance:

Provided that—

(a) a judgment in such proceedings whether for or against the employer shall be a bar to proceedings at the suit of any person by whom, or on whose behalf, such proceedings were taken, in respect of the same injury under the provisions of this Ordinance;

(b) a judgment in proceedings under this Ordinance whether for or against the employer shall be a bar to proceedings at the suit of any person by whom, or on whose behalf, such proceedings were taken, in respect of the same injury independently of this Ordinance;

(c) an agreement come to between the employer and the workman under the provisions of sub-section (1) of section 17 shall be a bar to proceedings by the workman in respect of the same injury independently of this Ordinance.

(2) (a) If in any proceedings independently of this Ordinance an action is brought to recover damages for injury caused by an accident, and it is determined in such action or on appeal that the injury is one for which the employer is not liable in such action, but that he would have been liable to pay compensation under this Ordinance, the action shall be dismissed; but

(i) the Court in which the action is tried; or

(ii) if the determination is the determination on an appeal by either party by an appellate tribunal, that tribunal; may assess the amount of compensation so payable but may deduct from such compensation all or part of the costs, which, in its judgment have been caused by the plaintiff bringing the action instead of proceeding under this Ordinance.

(b) In any proceedings under this sub-section, where the Court or appellate tribunal assesses the compensation it shall give a certificate of the compensation it has awarded and the directions it has given as to the deduction of costs, and such certificate shall have the force and effect of an award under this Ordinance.

(c) An appellate tribunal may, instead of itself assessing compensation as provided in paragraph (a) of this sub-section, remit the case to the Court of first instance for the assessment of the compensation, and in such case may order the Court of first instance to deduct from the amount of compensation assessed by it all or part of such costs as aforesaid.

27. (1) The Governor in Council may by Order published in the *Gazette*, require any employer or class of employers to insure and keep himself or themselves insured, with such insurers as may be approved by the Governor, in respect of any liability which they may incur under the provisions of this Ordinance, to any workman employed by them:

Governor in Council may require employers to insure.

Provided that the Governor may in his discretion permit an employer, instead of insuring himself, to enter into an undertaking with the Sierra Leone Government in the form of a bond duly to discharge any liability which may be required to be covered by a policy of insurance by an Order made under this sub-section.

(2) An employer who acts in contravention of any Order made under the provisions of sub-section (1) of this section shall be guilty of an offence and shall be liable on summary conviction therefor to a fine not exceeding five pounds for every day during which the default continues.

28. (1) Where any employer has entered into a contract with any insurers in respect of any liability under this Ordinance to any workman, then, in the event of the employer dying, or, becoming bankrupt or insolvent, or making a composition or arrangement with his creditors, or, if the employer is a company, in the event of the company having commenced to be wound up or a receiver or manager of the company's business or

Provision as to cases of bankruptcy of employer.

undertaking having been duly appointed, the rights of the employer against the insurers as respects the liability shall, notwithstanding anything contained in any laws relating to bankruptcy and the winding-up of companies for the time being in force, be transferred to and vest in the workman, and upon any such transfer the insurers shall have the same rights and remedies and be subject to the same liabilities as if they were the employer:

Provided that the insurers shall not be under any greater liability to the workman than they would have been under to the employer.

(2) If the liability of the insurers to the workman is less than the liability of the employer to the workman, the workman may prove for the balance in the administration of the estate, or the bankruptcy or liquidation, or, as the case may be, he may recover the balance from the receiver or manager.

(3) There shall be included amongst the debts which—

Cap. 212.

(i) under the provisions of section 58 of the Employers and Employed Ordinance, are in the distribution of the property or assets of a deceased, or a bankrupt or insolvent employer to be paid prior to all other debts; and

Cap. 249.

(ii) under the provisions of section 249 of the Companies Ordinance, are in the winding-up of a company to be paid in priority to all debts, the amount due in respect of any compensation or liability for compensation accrued before the following dates, that is to say—

(a) in the first case the date of the death of the employer, or of the receiving Order; and

(b) in the second case the date of commencement of the winding-up of the company.

Where the compensation is a periodical payment, the amount due in respect thereof shall, for the purposes of this provision, be taken to be the amount of the lump sum for which the periodical payment could, if redeemable, be redeemed if the employer made an application for that purpose under the provisions of this Ordinance.

(4) The provisions of sub-section (3) of this section shall not apply where the deceased, bankrupt or insolvent employer has entered into such a contract with insurers as is referred to in sub-section (1) of this section.

29. (1) This Ordinance shall apply to masters, seamen and apprentices to the sea service, provided that such persons are workmen within the meaning of this Ordinance, and are members of the crew of any ship registered in Sierra Leone or of any other British ship or vessel of which the owner, or (if there is more than one owner) the managing owner, or manager resides or has his principal place of business in Sierra Leone, subject to the following modifications—

Application
to persons
employed
on ships.

(a) the notice of accident and the claim for compensation may, except where the person injured is the master, be given to the master of the ship as if he were the employer, but where the accident happened and the incapacity commenced on board the ship it shall not be necessary to give any notice of the accident;

(b) in the case of the death of the master, seaman or apprentice, the application for compensation shall be made within three months after news of the death has been received by the claimant;

(c) whenever in the course of any legal proceeding under this Ordinance the testimony of any witness is required in relation to the subject matter of the proceeding, then, upon due proof that the witness cannot be found in Sierra Leone, any deposition which the witness may have previously made on oath in relation to the same subject matter before any justice or magistrate in Her Majesty's dominions or in any place where Her Majesty exercises jurisdiction or before any British Consular Officer elsewhere and which, if the proceeding had been under the Merchant Shipping Act, 1894, would have been admissible in such proceeding by virtue of sections 691 and 695 of that Act, shall be admissible in evidence subject to similar conditions as are laid down in the said sections 691 and 695;

(d) in case of the death of the master, seaman or apprentice leaving no dependants, no compensation shall be payable, if the owner of the ship is under the Merchant Shipping Act, 1894, liable to pay expenses of burial;

(e) the periodical payment shall not be payable in respect of the period during which the owner of the ship is, under any law in force for the time being in Sierra Leone relating to merchant shipping, liable to defray the expenses of maintenance of the injured master, seaman or apprentice.

(2) This Ordinance shall not apply to such members of the crew of a fishing vessel as are remunerated wholly or mainly by shares in the profits or the gross earnings of the working

of such vessel, except in such cases and subject to such modifications as the Governor in Council may by Order provide.

(3) This Ordinance shall also apply to any person not being a master, seaman or apprentice to the sea service, employed on board any such ship as is mentioned in this section, if he is so employed for the purposes of the ship or of any passengers or cargo or mails carried by the ship, and if he is otherwise a workman within the meaning of this Ordinance.

(4) In this section unless the context otherwise requires—

“ship”, “vessel”, “seaman” and “port” shall have the same meaning as in the Merchant Shipping Act, 1894;

“master” in relation to a ship means the ship's husband or other person to whom the management of the ship is entrusted by or on behalf of the owner.

Contracting
out.

30. Any contract or agreement whether made before or after the commencement of this Ordinance, whereby a workman relinquishes any right to compensation from an employer for injury arising out of and in the course of his employment shall be null and void in so far as it purports to remove or reduce the liability of any person to pay compensation under the provisions of this Ordinance:

Provided that a workman, who has obtained compensation in respect of permanent partial or permanent total incapacity, may enter into a contract reducing or giving up his right to compensation under the provisions of this Ordinance in respect of any further personal injury by accident if such contract is certified to be fair and reasonable by the Commissioner of Labour or a person appointed by him in writing in that behalf.

Compensation
not to be
assigned,
charged or
attached.

31. Compensation payable under the provisions of this Ordinance shall not be capable of being assigned, charged or attached, and shall not pass to any other person by operation of law, nor shall any claim be set off against such compensation.

PART III.—MEDICAL AID.

Medical
expenses.

32. (1) The employer shall defray the reasonable expenses incurred by a workman within Sierra Leone, or, with the approval of the Director of Medical Services, outside Sierra Leone, as the result of an accident arising out of and in the course of his employment—

(a) in respect of medical, surgical and hospital treatment, skilled nursing services and the supply of medicines to an amount not exceeding one hundred pounds in all;

(b) in respect of the supply, maintenance, repair and renewal of non-articulated artificial limbs and other surgical appliances to an amount not exceeding fifty pounds in all; and

(c) in respect of reasonable transport charges, not exceeding in all the sum of twenty-five pounds, incurred in the transfer of a workman to a place where the necessary treatment is available; so, however, that such transfer shall be certified necessary by the medical practitioner in charge of the case.

(2) The Court may, when determining any dispute in respect of compensation, or upon the application of any interested person, order the payment of any of the expenses referred to in this section to the persons entitled to receive it, and if such expenses exceed the amount provided in paragraph (a) of sub-section (1) of this section, the Court may apportion the amount available in such manner as the Court may deem expedient.

33. (1) All disputes as to the necessity for, or the character or sufficiency of, any medical aid provided or to be provided under this Part of this Ordinance shall be determined by the Court.

Decisions in Court in regard to treatment and medical report.

(2) Any decision of the Court given under sub-section (1) of this section shall be final.

34. The fees and charges for medical aid to workmen within Sierra Leone shall be in accordance with such scale as may be prescribed, and no claim for an amount in excess of a fee or charge in accordance with that scale shall lie against any workman or his employer in respect of any such medical aid.

Fees for medical aid to be prescribed.

PART IV.—OCCUPATIONAL DISEASES.

35. (1) Where a medical practitioner grants a certificate—

(a) that a workman is suffering from a disease mentioned in the Third Schedule and is thereby incapacitated from earning full wages at the work at which he is employed; or

(b) that the death of a workman is caused by such disease; and the disease is due to the nature of any employment in which the workman was employed at any time within the

Compensation in respect of diseases.

eighteen months previous to the date of disablement or death, whether under one or more employers he or his dependants shall be entitled to compensation under this Ordinance, as if the disease aforesaid were a personal injury by accident arising out of and in the course of that employment unless it is proved that the workman has at the time of entering employment wilfully and falsely represented in writing to the employer, in reply to a specific question, that he had not previously suffered from the disease, in which case compensation shall not be payable.

(2) If on the hearing of an application for compensation in the terms of sub-section (1) of this section the Court is satisfied on the evidence that the allegations in the certificate are correct, the workman or his dependants, as the case may be, shall be entitled to compensation under this Ordinance as if the contracting of the disease were an injury by accident arising out of and in the course of the workman's employment.

Liability to
pay com-
pensation.

36. (1) Compensation shall be recoverable from the employer who last employed the workman during the period of eighteen months referred to in section 35 in the employment to which the nature of the disease was due.

(2) The workman or his dependants, if so required, shall furnish the employer from whom compensation is claimed such information as he or they possess as to the names and addresses of all other employers who during the said eighteen months employed the workman in the occupation to the nature of which the disease is due.

(3) If the employer alleges that the disease was in fact contracted while the workman was in the employment of some other employer and not while in his employment, he may join such other employer as a party to the proceedings in such manner as may be provided by rules of court made under section 44 and if the allegation is proved, that other employer shall be the employer from whom compensation is to be recoverable.

(4) If the disease is of such a nature as to be contracted by a gradual process, any other employers who during the said eighteen months employed the workman in the occupation to the nature of which the disease is due shall be liable to make to the employer from whom compensation is recoverable such contributions as in default of agreement may be settled by civil suit, or, by consent of the parties, by arbitration under the Arbitration Ordinance.

Cap. 25.

37. (1) In the application of the provisions of this Ordinance to disablement or death caused by a scheduled disease, references to the date of the occurrence of the accident shall be construed as meaning—

Fixing a date from which time is to run, indicating requirements as to the giving of notice and defining earnings.

(a) in the case of a disease causing disablement, the date of the certificate referred to in section 35; and

(b) in the case where a workman dies without having obtained a certificate of disablement, or is at the time of death not in receipt of a periodical payment on account of disablement, it shall be the date of death.

(2) The provisions of section 14 shall apply in respect of the recovery of compensation under this Part of this Ordinance as they apply in respect of the recovery of compensation for injury.

(3) Compensation under this Part of this Ordinance shall be calculated with reference to the earnings of the workman under the employer from whom compensation is recoverable and the monthly earnings of the workman shall be computed in such manner as is best calculated to give the rate per month at which the workman was being remunerated during the last twelve months of his employment with such employer, but, if not, then for any less period during which he has been in the employment of such employer:

Provided that where by reason of the shortness of the time during which the workman has been in the employment of such employer or the casual nature of his employment, or the terms of his employment, it is impracticable to compute the rate of remuneration in the manner aforesaid regard may be had to the average monthly amount which during the last twelve months of his employment with such employer was being earned by a person of similar earning capacity in the same grade in the same occupation by the same employer, or if there is no person so employed, by a person of similar earning capacity in the same grade employed in the same occupation and in the same district.

38. If a workman who becomes disabled by or dies of any disease in the Third Schedule to this Ordinance was within the period of eighteen months immediately preceding the disablement or death employed in any occupation mentioned in such Schedule opposite such disease, it shall be presumed, unless or until the contrary is proved, that the disease was due to the nature of such employment.

Presumption as to cause of disease.

Saving right of workman to proceed against previous employer.

39. Nothing in this Part of this Ordinance shall be construed as preventing compensation being recoverable from any employer who employed the workman during the eighteen months referred to in section 35 if the employer who last employed the workman during the period proves that the disease was not contracted while the workman was in his employment, in which case the provisions of sub-section (3) of section 36 shall apply.

Saving as to other diseases.

40. Nothing in this Part of this Ordinance shall affect the rights of the workman to recover compensation in respect of a disease to which this Part does not apply, if the disease is a personal injury by accident within the meaning of this Ordinance.

Compensation to include medical aid.

41. For the purposes of this Part of this Ordinance compensation shall include medical aid within the meaning of Part III thereof.

Power of Governor in Council to add to or delete from Third Schedule.

42. The Governor in Council may by notice in the *Gazette* delete from the Third Schedule to this Ordinance any disease mentioned therein and may, in like manner, insert any disease in the said Schedule:

Provided that the intention to issue any such notice shall be published in the *Gazette* at least one month before the issue thereof, and any person wishing to do so may make his objection in writing to the Commissioner of Labour who shall notify the Governor in Council of any such objections before any such notice is issued.

PART V.—GENERAL.

Power to make rules.

43. (1) The Governor in Council may make rules not inconsistent with this Ordinance for the purpose of giving better effect to the purposes and provisions thereof; and without prejudice to the generality of the foregoing power he may make rules—

(a) prescribing procedure, form and fees; -

(b) prescribing anything which is to be or may be prescribed under this Ordinance;

(c) requiring employers, and insurers carrying on in Sierra Leone the business of insuring employers against their liabilities under this Ordinance, to make periodic or other returns as to such matters as he may think fit, and prescribing a time limit for the making of such returns.

(2) Any person required to make a return by virtue of any rule made under sub-section (1) of this section who—

(a) fails to make such return within the time within which he is required to make it; or

(b) makes or causes to be made a return which he knows to be false in any material particular; or

(c) on being so required fails to give any information or explanation respecting the return which it is in his power to give;

shall be guilty of an offence and shall be liable, on summary conviction therefor, to a fine not exceeding five pounds for every day during which the default continues.

(3) Where a person convicted for an offence under this section is a company, the chairman and every director and every officer of the company shall be guilty of a like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

44. The Chief Justice may make rules of court for regulating proceedings before the Court under the provisions of this Ordinance, and for the fees payable in respect thereof. Rules of court.

45. (1) Where an arrangement has been made whereby sums awarded under the law relating to workmen's compensation in Sierra Leone to beneficiaries resident or becoming resident in the United Kingdom or in any other part of Her Majesty's dominions, and sums awarded under the law relating to workmen's compensation in the United Kingdom or in such other part of Her Majesty's dominions to beneficiaries resident or becoming resident in Sierra Leone may, at the request of the authority by which the award is made, be transferred to and administered by a competent authority in the United Kingdom or in such other part of Her Majesty's dominions or in Sierra Leone as the case may be, the Governor in Council may make rules— Rules as to transfer of funds.

(a) for the transfer, in such manner as may be provided by the arrangement, to the United Kingdom or that part of Her Majesty's dominions with which the arrangement is made of any money in the disposition of the Court, applicable for the benefit of any person resident in or about to reside in the United Kingdom or such other part of Her Majesty's dominions;

(b) for the receipt and administration by an officer appointed by the Governor for such purpose of any money which under any such arrangement has been transmitted from the United Kingdom or the part of Her Majesty's dominions with which the arrangement has been made as money applicable for the benefit of any person resident or about to reside in Sierra Leone.

(2) For the purposes of this section "Her Majesty's dominions" includes British Protectorates and protected states and territories in respect of which a trusteeship agreement has been entered into by Her Majesty.

FIRST SCHEDULE.

(Section 3.)

Mother, father, husband,
Wife, son, daughter,
Brother, sister,
Father's father,
Father's brother.

SECOND SCHEDULE.

(Section 3.)

	<i>Per Cent.</i>
Loss of two limbs... ..	100
Loss of both hands or of all fingers and both thumbs	100
Loss of both feet	100
Total loss of sight	100
Total paralysis	100
Injuries resulting in being bedridden permanently	100
Any other injury causing permanent total disablement	100
Loss of remaining eye by one-eyed workman	70
Loss of remaining arm by one-armed workman	68
Loss of remaining leg by one-legged workman	67
Loss of arm at shoulder	60-65
Loss of arm between elbow and shoulder	60
Loss of arm at elbow	60
Loss of arm between wrist and elbow	35
Loss of hand at wrist	35
Loss of four fingers and thumb of one hand	10
Loss of four fingers	8
Loss of thumb:	
both phalanges	10
one phalanx	8
Loss of index finger:	
three phalanges	8
two phalanges	4
one phalanx	4

Loss of middle finger:										6
three phalanges	...	...	...	...	...	...	...	...	...	4
two phalanges	...	...	...	...	...	...	...	...	...	2
one phalanx	...	...	...	...	...	...	...	...	...
Loss of ring finger:										5
three phalanges	...	...	...	...	...	...	...	...	...	4
two phalanges	...	...	...	...	...	...	...	...	...	2
one phalanx	...	...	...	...	...	...	...	...	...
Loss of little finger:										4
three phalanges	...	...	...	...	...	...	...	...	...	3
two phalanges	...	...	...	...	...	...	...	...	...	2
one phalanx	...	...	...	...	...	...	...	...	...
Loss of Metacarpals:										3
first or second (additional)	...	...	...	...	...	...	...	...	...	2
third or fourth or fifth (additional)	...	...	...	...	...	...	...	...	...	70
Loss of leg at or above knee	...	...	...	...	...	...	...	...	...	40
Loss of leg below knee	...	...	...	...	...	...	...	...	...	40
Loss of foot	...	...	...	...	...	...	...	...	...
Loss of toes:										15
all	...	...	...	...	...	...	...	...	...	5
great, both phalanges	...	...	...	...	...	...	...	...	...	2
great, one phalanx	...	...	...	...	...	...	...	...	...	1
other than great, if more than one toe lost each	...	...	...	...	...	...	...	...	...
Loss of eye:										30
eye out	...	...	...	...	...	...	...	...	...	30
sight of	...	...	...	...	...	...	...	...	...	30
lens of	...	...	...	...	...	...	...	...	...	30
sight of, except perception of light	...	...	...	...	...	...	...	...	...
Loss of hearing:										50
both ears	...	...	...	...	...	...	...	...	...	7
one ear	...	...	...	...	...	...	...	...	...

Total permanent loss of use of member shall be treated as loss of member.

The percentage of incapacity for ankylosis of any joint shall be reckoned as from 25 to 100 per cent of the incapacity for loss of the part of that joint, according to whether the joint is ankylosed in a favourable or unfavourable position.

In the case of a right-handed workman, an injury to the left arm or hand and, in the case of a left-handed workman, to the right arm or hand shall be rated, in ninety per centum of the above percentages.

Where there is a loss of two or more parts of the hand, the percentage of incapacity shall not be more than for the whole hand.

Where there are two or more injuries, the sum of the percentages for such injuries may be increased, and, where such injuries are to the hand, the following basis of computing the increase shall be adopted, namely—

(a) Where two digits have been injured, the sum total of the percentages shall be increased by twenty per centum of such sum total;

(b) Where three digits have been injured, the sum total of the percentages shall be increased by thirty per centum of such sum total;

(c) Where four digits have been injured, the sum total of the percentages shall be increased by forty per centum of such sum total.

A one-eyed workman who on entering employment has failed to disclose the fact that he is one-eyed to his employer shall, if he loses his remaining eye, be entitled to compensation in respect of a degree of disablement of thirty per centum only.

For the purpose of this Schedule, a one-eyed workman means a workman who has lost the sight of one eye.

THIRD SCHEDULE.

(Sections 3 and 35.)

OCCUPATIONAL DISEASES.

<i>Description of Disease.</i>	<i>Description of Work.</i>
Anthrax.	Work in connection with animals or handling of animal carcasses or of wool, hair, bristles, hides, skins, hoofs or horns.
Lead poisoning or its sequelae.	Any process involving the production, liberation or handling of lead or its compounds, or any work involving the use of lead or its preparations or compounds.
Mercury poisoning, its amalgams, compounds, and their sequelae.	Any process involving the production, liberation, utilisation or handling of mercury or its compounds or any work involving the use of mercury or its amalgams or compounds.
Arsenic poisoning or its sequelae.	Any process involving the production, liberation or utilisation of arsenic or its preparations or its compounds.
Primary epitheliomatous cancer or ulceration of the skin.	Any work or process involving the use or handling of tar, pitch, bitumen, mineral oil, paraffin or the compounds, products or residues of these substances.
Pathological manifestations due to:	Any process involving exposure to the action of radium, radioactive substances or X-rays.
(a) Radium or other radioactive substances.	
(b) X-rays.	
Benzine poisoning or poisoning by the homologues of benzine or their nitro and amidoderivatives and its sequelae.	Any process involving the production, liberation or utilisation of benzine or its homologues or their nitro and amidoderivatives.